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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/908,994	07/17/2001	John Shigeura	4470	8729
20995	7590	01/31/2007	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				SISSON, BRADLEY L
ART UNIT		PAPER NUMBER		
		1634		
NOTIFICATION DATE		DELIVERY MODE		
01/31/2007		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/908,994	SHIGEURA ET AL.	

Examiner  
Bradley L. Sisson

Art Unit  
1634

All participants (applicant, applicant's representative, PTO personnel):

(1) Bradley L. Sisson, Primary Examiner. (3) \_\_\_\_\_  
 (2) Eli Loots, Reg. No. 54,715. (4) \_\_\_\_\_

Date of Interview: 23 January 2007.

Type: a) Telephonic b) Video Conference  
 c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
 If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 10-28.

Identification of prior art discussed: US Patent 5,593,838 (Zanzucchi et al.), US Patent 5,607,646 (Okano et al.), US Patent 5,962,228 (Brenner); US Patent 5,811,296 (Chemelli et al.), and US Patent 5,422,271 (Chen et al.).

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews**

#### **Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### **37 CFR §1.2 Business to be transacted in writing.**

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Agreement was reached in that claims 10-20 do not limit the physical property being altered, and that it could be virtually any property. Agreement was reached that Okano et al. does teach altering a physical property on a selective basis such that specific nucleotides are being eluted.

Mr. Loots questioned the art relied upon rejecting claims 10-20 as teaching the use of an array of capture probes, and that seemingly Brenner does not teach an array of probes where probes of different sequences are kept apart from other probes, and as such, if the beads were to be added to the well of Zanzucchi et al., then one would have multiple hybridization reactions taking place in a common well, and would not be able to selectively elute one target sequence over that of another.

Mr. Sisson noted that Brennan, column 14, last two paragraphs, teaches that the solid support can take on any number of forms, including "microparticles or arrays, or matrices, of regions where uniform populations of tag complements are synthesized." Mr. Sisson also directed attention to Brennan, column 15, second paragraph, as teaching "[T]ag complements may also be synthesized on a single (or a few) solid phase support to form an array of regions uniformly coated with tag complements. That is, within each region in such an array the same tag complement is synthesized." Attention was also directed to column 4, penultimate paragraph, as teaching "sorting labeled tags onto a spatially addressable array of tag complements for detection." Mr. Sisson indicated that he construed these teachings of Brennan to disclose the aspect of synthesizing an array, be it one dimensional or two dimensional, where tag complements (applicant's sequence-specific capture agent complementary to a different-sequence polynucleotide) are in a serial alignment (an array), where each tag complement has a different sequence, and allows for the specific capture and identification of target sequences.

Mr. Loots inquired as to the motivation to combine Brennan with that of Zanzucchi et al. In response, Mr., Sisson noted that Zanzucchi et al., column 4, discloses conducting a DNA hybridization assay, and that at column 5, the substrate can be formatted in an array so as to accomplish any assay. Mr. Sisson also noted that Zanzucchi et al., column 5, teaches explicitly of incorporating electrodes and leads to help drive a sample, and that at column 7, last paragraph, the aspect of including electrical heating means in a well/chamber of an array is also disclosed.

Mr. Loots noted that claim 22 requires the physical property to be heat, and that heat is applied to one support while leaving at least one other support unaltered, and that Okano et al., column 3, last paragraph, bridging to column 4, discloses applying a heated solution to a chip that comprises an array, and that elution of the desired target polynucleotide is achieved by application of both heat and reversed electric field.

Mr. Sisson noted that while Okano et al., disclose having the array on a chip, Brennan discloses having the capture probes bound to particles, which could be placed in the wells of the device of Zanzucchi et al., and that the introduction of a heated solution in one well and not necessarily to all of the wells. Mr. Sisson also noted that Zanzucchi et al., teaches explicitly of configuring the device to have heating elements as well as other electrical components under computer control, thereby allowing the individual treatment of the specific wells of the array, including the elution of a specific target nucleic acid without affecting the conditions o the other wells of the array .